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WESTERN DISTRICT OF WASHINGTON  
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07-CV-01479-CMP

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 LINDEZA INTERNATIONAL LTD., a }  
10 Bermuda corporation, }  
11 Plaintiff, }  
12 v. }  
13 DELTA MARINE INDUSTRIES, INC., a }  
14 Washington corporation, }  
15 Defendant. )

AT LAW AND IN ADMIRALTY

No. C 07-1479 JPO

COMPLAINT FOR DAMAGES

TWELVE PERSON JURY DEMAND

16 COMES NOW plaintiff and alleges as follows:

17 I. PARTIES

18 1. Plaintiff, Lindeza International Ltd., is a Bermuda corporation and at all times  
19 relevant hereto, the owner of the M/Y MARJORIE MORNINGSTAR, Official No. 708170 of  
20 British registry.

21 2. Defendant, Delta Marine Industries ("Delta Marine") is a Washington  
22 corporation with its principal place of business in Seattle, Washington. At all times material  
23 herein, Delta Marine was and is in the business of designing, building, repairing, modifying,  
24 manufacturing, marketing and selling luxury yachts to the general public.

25  
26 COMPLAINT FOR DAMAGES - 1  
Case No.

052776.0001/1425877.1

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ORIGINAL

## J. JURISDICTION AND VENUE

3. This Court is vested with jurisdiction over this dispute pursuant to the provisions of Title 28 U.S.C. § 1332. Plaintiff, Lindeza International Ltd. is a Bermuda corporation. Defendant, Delta Marine, is a Washington corporation. Complete diversity of citizenship exists between the parties and the amount in controversy, exclusive of interest and costs exceeds \$75,000. This is a case within the Court's admiralty and maritime jurisdiction involving the ship repair of a vessel and jurisdiction also vests pursuant to Title 28 U.S.C. § 1333(1).

4. Pursuant to CR 5(e)(1) of the Local Rules of this Court, Seattle is the proper place for filing this case because defendant, Delta Marine's, principal place of business is in Seattle, Washington. Furthermore, venue is proper in the Western District of Washington under 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to the claims occurred in this district.

### III. FACTUAL ALLEGATIONS

5. Plaintiff, Lindeza International Ltd., owns the M/Y MARJORIE MORNINGSTAR, Official No. 708170 of British registry. Built in 1984, MARJORIE MORNINGSTAR is a 143 foot molded fiberglass ocean-going motor yacht.

6. In preparation for an Alaskan cruise during the summer of 2007, plaintiff sailed MARJORIE MORNINGSTAR in December, 2006 from Martinique to Delta Marine's facility in Seattle, Washington, where she arrived on 21 December 2006. Initial plans called for the vessel to be hauled for bottom work including a tail shaft inspection to comply with MARJORIE MORNINGSTAR's ABS classification, for her generators to be inspected, and for some interior cosmetic work to be completed. Subsequently, the scope of repairs expanded to include replacing the vessel's generators and her hull stabilizers.

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1       7. Some time prior to March 31, 2007, Delta Marine hauled MARJORIE  
2 MORNINGSTAR out of the water and into one of Delta's fabrication buildings at its Seattle  
3 facility where Delta's employees worked on the vessel.

4       8. In the process of working on MARJORIE MORNINGSTAR's electrical  
5 system, Delta electricians bypassed the vessel's isolation transformer and main breaker panel  
6 and rigged a shoreside power line to several electrical subpanels aboard the vessel.

7       9. On the morning of March 31, 2007, Delta Marine electricians were working on  
8 MARJORIE MORNINGSTAR's electrical components, and in the process disconnected the  
9 main shoreside power line to the vessel. Some time between 10:00 a.m. to 10:30 a.m.,  
10 electricians reconnected the main power supply to the vessel. Approximately 20 to 30  
11 minutes after the power was reconnected, workers in the MARJORIE MORNINGSTAR's  
12 engine room smelled smoke. Shouting an alarm, the workers evacuated the vessel and 911  
13 was called. Efforts to extinguish the fire with fire extinguishers from outside the vessel  
14 through a porthole were unsuccessful. At approximately 11:30 a.m., the Seattle Fire  
15 Department arrived at the scene, ordered everyone out of Delta Marine's construction facility,  
16 and then proceeded to extinguish the fire.

17       10. A subsequent investigation by the Seattle Fire Marshal concluded the fire was  
18 electrical in origin and had started at an electrical outlet on the starboard wall of the vessel's  
19 exercise room.

20       11. As a result of the fire, the vessel was extensively damaged; initial repair  
21 estimates provided by Delta Marine were in excess of nine million dollars (\$9,000,000), and  
22 the vessel was rendered a total constructive loss. The salvage value of the vessel has been  
23 estimated at \$1.2 million.

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**IV. FIRST CLAIM FOR RELIEF**

12. By circumventing the MARJORIE MORNINGSTAR's main electrical breakers and isolation transformer and improvising a connection of the shoreside power to the vessel's subpanels, Delta Marine negligently caused electrical abnormalities aboard the vessel in violation of good marine practice which proximately caused the fire and the vessel's destruction.

13. In the course of working aboard the MARJORIE MORNINGSTAR, Delta Marine's employees caused the vessel's fire alarms to become disabled and negligently failed to remedy this situation in violation of good marine practice which was a proximate cause of plaintiff's damages.

14. On December 21, 2006, plaintiff delivered MARJORIE MORNINGSTAR to Delta Marine in good condition for repairs.

15. A contract of bailment existed between plaintiff and Delta Marine while the MARJORIE MORNINGSTAR was in Delta Marine's care, custody and control.

16. While in Delta Marine's possession the MARJORIE MORNINGSTAR was rendered a total constructive loss by fire.

17. Due to Delta Marine's negligence, the bailment contract was breached and this negligence was a proximate cause of plaintiff's damages.

18. At the time the fire broke out aboard the MARJORIE MORNINGSTAR and an alarm sounded, Delta Marine's employees were improperly trained and equipped to fight vessel fires. Delta Marine's failure to properly train its employees in fire suppression and its failure to equip its repair facilities with fire hoses constitutes negligence which was a proximate cause of plaintiff's damages.

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**V. SECOND CAUSE OF ACTION**  
**Gross Negligence, Recklessness**

19. In circumventing the MARJORIE MORNINGSTAR's main electrical breakers and isolation transformers and improvising a connection of the shoreside power to the MARJORIE MORNINGSTAR's subpanels, Delta Marine recklessly violated good marine practice and such gross negligence and recklessness proximately caused plaintiff's damages.

**VI. THIRD CAUSE OF ACTION**  
**Breach of Contract**

20. By circumventing the MARJORIE MORNINGSTAR's main electrical breakers and improvising a connection of the shoreside power to the subpanels, Delta Marine failed to observe good marine practices and as such breached its contract with Lindeza International. As a result of Delta Marine's breach, plaintiff is entitled to recover its costs and losses, including incidental and consequential damages as well as attorneys' fees and costs.

21. By circumventing the MARJORIE MORNINGSTAR's main electrical breakers and improvising a connection of the shoreside power to the subpanels, Delta Marine breached its implied contractual warranties, including the implied warranty of workmanlike performance with respect to the repair of the MARJORIE MORNINGSTAR. As result of Delta Marine's breach, plaintiff is entitled to recover its costs and losses, including incidental and consequential damages as well as attorneys' fees and costs.

22. In the course of working aboard the MARJORIE MORNINGSTAR Delta Marine's employees caused the vessel's fire alarms to become disabled and in violation of good marine practice and the warranty of workmanlike performance failed to remedy this situation. As a result of Delta Marine's breach, plaintiff is entitled to recover its costs and losses, including incidental and consequential damages as well as attorneys' fees and costs.

23. On December 21, 2006, plaintiff delivered the MARJORIE MORNINGSTAR in good condition to Delta Marine for repair.

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1           24. The aforesaid constituted a contract of bailment between plaintiff and Delta  
2           Marine.

3        25. While in Delta Marine's possession the MARJORIE MORNINGSTAR was  
4 rendered a total constructive loss by fire.

5       26. Due to Delta Marine's negligence, the bailment contract between plaintiff and  
6 defendant was breached. As a result of Delta Marine's breach of contract, plaintiff is entitled  
7 to recover its costs and losses, including incidental and consequential damages as well as  
8 attorneys' fees and costs.

## **VII. CLAIM FOR DAMAGES**

10       27. As a result of defendant's tortious conduct, and as a direct result of Delta  
11 Marine's breach of contract and warranties as set forth above, plaintiff has suffered direct and  
12 consequential damages exceeding \$9 million, the exact amount of which will be proven at  
13 trial. Plaintiff is further entitled to attorneys fees and costs.

## **VIII. PRAYER FOR RELIEF**

15 WHEREFORE, plaintiff prays for judgment against defendant as follows:

16 1. For a judgment of liability in favor of plaintiff against Delta Marine,

17       2. For award of damages in the an amount to be proven at the time of trial,  
18 together with accrued interest theron at a maximum rate provided by law;

19       3. For reasonably attorneys' fees and costs allowed by law and/or the party's  
20 contract; and

21       4. For such other relief as the Court deems equitable and just under the  
22 circumstances then existing.

## **IX. JURY DEMAND**

24 Pursuant to Fed. R. Civ. P. 38(b), plaintiff requests a jury trial consisting of twelve  
25 jurors in the above-referenced matter.

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1 || //

2 DATED this 12 day of September, 2007

3 LANE POWELL PC

By Mark Green

Mark G. Beard, WSBA No. 11737  
Katie S. Matison, WSBA No. 20737  
Attorneys for Plaintiff, Lindeza International  
Ltd.

COMPLAINT FOR DAMAGES - 7  
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